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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3240 of 1992

with

SPECIAL CIVIL APPLICATION No 3241 of 1992

with

SPECIAL CIVIL APPLICATION No 3242 of 1992

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

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SURESHBHAI KANTIBHAI PATEL

Versus

DIST. PRIMARY EDUCATION OFFICER

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Appearance:

MR DIPAK C RAVAL for Petitioner No. 1

M/S THAKKAR ASSOC. for Respondent No. 1

NOTICE SERVED for Respondent No. 2

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CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 01/07/2004

ORAL JUDGEMENT

1. The petitioners have challenged the order dated 1st May 1992, whereby their services have been terminated.

2. The respondent no.1 had invited application for the post of Assistant District Education Inspector. The petitioners had applied for the same and they were interviewed by a Selection Committee. After the interview the respondents prepared a list of 20 persons of which 7 were regularly selected and 13 were placed in the waiting list. The petitioners were amongst the regularly selected persons. By an order dated 29th April 1992, the petitioners were given appointment and the petitioners reported for duty on 30th April 1992. Thereafter by order dated 1st May 1992 the respondent authorities terminated the services of the petitioners. The petitioners have challenged the said order dated 1st May 1992 in the above petitions.

3. Learned counsel for the petitioner submitted that the Taluka Development Officer, the respondent no.2 has no authority either to appoint or to terminate the services of the petitioners. According to the petitioners, they are qualified for the post and under the statutory recruitment rules they were selected by competent statutory selection committee and therefore there was no reason for terminating their services. Learned counsel for the petitioner pointed out that total seven persons from the merits list were appointed. The petitioners are at serial nos.3, 4 and 6. The services of persons at serial nos.1, 2 and 5 are continued, whereas the services of the petitioners have been terminated and this would amount to persons who are higher in the merit list are discontinued and persons who are lower in the merit list are continued and therefore there is clear discrimination against the petitioners.

4. Learned counsel for the respondents submitted that the services of the petitioner were terminated because the selection process through which the petitioners were selected was illegal. In the affidavit filed on behalf of the respondent District Primary Education Officer, Sabarkantha it is stated that all the candidates who were appointed in pursuance of Select List will also be terminated if the stay against the termination of petitioners is vacated by this Court.

5. On perusal of the papers it appears that there is no stay against cancellation of the select list. The interim relief granted by this Court is as per para 5 of the petition which confines to the respective petitioners only. By virtue of the interim relief granted by this Court the petitioners have continued in service right from 1992. It is not in dispute that the select list is not cancelled by the respondent and only the services of the present petitioners were sought to be terminated. In view of the fact that the select list is not cancelled, there is no substance in the contention that the selection was illegal. Nothing has been pointed out to justify the impugned order terminating the services of the petitioners who are at serial nos.3, 4 and 6 of the select list, especially when other pe
in service.

6. In the result, the petitions succeed. The impugned order dated 1.5.1992, Annexure-B, is quashed and set aside. It is held that the petitioners are entitled to continuous service on the post of Assistant District Inspector. Rule is made absolute accordingly with no order as to costs.

[K.S. JHAVERI, J.[

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